**UNITED STATES DEPARTMENT OF COMMERCE**
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| SERIAL NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NO. |
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| 08/239,978 | 05/09/94 | BREED D | ATI77 |

31M1/1130

SAMUEL SHIPKOVITZ
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| TYSON, K EXAMINER | |
|---|---|
| | |
| ART UNIT | PAPER NUMBER |
| 3106 | 9 |

DATE MAILED:
11/30/95

**Please find below a communication from the EXAMINER in charge of this application.**

Commissioner of Patents

| Office Action Summary | Application No. 08/239,978 | Applicant(s) Breed et al. |
|---|---|---|
| | Examiner Karin Tyson | Group Art Unit 3106 |

☒ Responsive to communication(s) filed on *10/5/95* .

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *three* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**

☒ Claim(s) *19-29, 33-36, 47-49, and 63* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *19-29, 33-36, 47-49, and 63* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

**Application Papers**

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

*--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---*

DETAILED OFFICE ACTION

1. Claims 1-18, 30-32, 37, 38-46 and 50-62 have been canceled.

Claim 48 is withdrawn as being drawn to a non-elected invention.

It is noted that the amendment filed October 5, 1995 amends claim 8. Since claim 8 was previously canceled, this amendment is improper.

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 C.F.R. § 1.75(d)(1) and M.P.E.P. § 608.01(l). Correction of the following is required: clear support or antecedent basis must be provided for "trained on data of said at least one occupant".

3. The disclosure is objected to because of the following informalities: words are improperly capitalized in the claims.

In claim 19, line 8 "Pattern" should not be capitalized.

In claim 47, line 4 "Means", in line 6 "Resonator", in line 10 "Means" and line 15 "Output" should not be capitalized. Appropriate correction is required.

In claim 24, line 2 "means" is mistyped.

4. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use

> the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an enabling written description of the claimed invention. The specification fails to provide an adequate written description of how a pattern recognition means is trained. Applicant has stated that software is commercially available from "NeuralWare Corporation of Pittsburg". It would be helpful if applicant would provide further information regarding the software and prior art uses therefore.

5. Claims 19-27, 28,29,and 33-36 are rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

6. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

7. Claims 19, 20, 28, 29, 33, 34, 36, 47 and 63 (renumbered from 68) are rejected over Ishikawa et al., U.S. Patent No. 4,625,329.

Ishikawa discloses a vehicle monitoring system including pattern recognition means. Ishikawa does not disclose to control an air bag system or to "train" the pattern recognition circuitry.

As to "training" of the circuitry, applicant has disclosed that such software is commonly available. Accordingly, one of ordinary skill in the art would have considered "training" to have been an obvious means to use the data as it is known in the art to be equivalent to other means.

Applicant's comments regarding claim 47 is noted. The examiner considers an occupant a resonator.

8. Claims 21-27 and 49 are rejected under 35 U.S.C. § 103 as being unpatentable over Ishikawa in view of Fujita, U.S. Patent No. 5,074,583.

Ishikawa discloses to control vehicle components in response to a signal from a pattern recognition means. Fujita discloses

to control an air bag system as a function of a passenger's size or position. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikawa to control the air bag system in order to improve safety as taught by Fujita.

As to claim 26, such inflators are conventional and would have been included in the combination.

As to claims 27 and 49, such sensors are conventional and would have been included in the combination.

9. Claim 35 is rejected under 35 U.S.C. § 103 as being unpatentable over Ishikawa as applied to claim 30 and further in view of Yano et al., U.S. Patent No. 5,125,686.

Ishikawa discloses all but an adjustable seat belt anchor.

Yano discloses such an anchor. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikawa to control the seat belt anchor in order to improve safety as taught by Yano.

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claim 47 is rejected under 35 U.S.C. § 102(b) as being anticipated by Research Disclosure No. 35,519.

The research disclosure discloses a illumination means, a resonator means, means to receive resonant radiation, means to process the received illumination and an output means as claimed.

12. Claim 49 is rejected under 35 U.S.C. § 103 as being unpatentable over Research Disclosure No. 35,519.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fujimoto to use the resonator to sense other conditions such as use of a safety belt.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gioutsos et al., U.S. Patent No. 5,446,661, discloses a system in which an occupant's position is used to optimally inflate an air bag.

14. REMARKS

Applicant's arguments are considered moot in view of the new ground of rejection.

The preliminary amendment claims originally numbered 63-67 were not entered because of the error in numbering the original claims. Accordingly, claim 68 has been renumbered 63.

15. Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL.** See M.P.E.P.

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

An amendment filed in response to this Office action should be addressed as follows:

By mail: Commissioner of Patents and Trademarks
Box AF
Washington, D.C. 20231

By FAX: (703) 305-7687
Attn: Art Unit 3106

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin Tyson whose telephone number is (703) 308-2086.

Karin Tyson
Primary Examiner
Art Unit 3106

November 25, 1995